A Friendly Visit from Senator Orrin Hatch

By: XanGo Online in: Corporate Events

The workweek at XANGO started with a personal visit from Utah Senator Orrin Hatch. By the middle of Monday, employees were layered row by row in the lobby of headquarters, waiting to offer a warm XANGO welcome to one of the great friends to our industry.

Author of the 1994 DSHEA legislation—the key piece of legislation which enables our business to operate without excessive intrusion—and a longtime advocate of our industry in Washington, D.C., Senator Hatch is a key legislative supporter of the natural products trade.

XANGO Founders Gary Hollister, Gordon Morton, Joe Morton, Bryan Davis and CEO Robert Conlee showed our guest around the office before giving him the floor for an overview of the changing political landscape and what we at XANGO can do to protect our business interests now and in the future.

About: XanGo Online

Based in Utah, XANGO is privately owned and powered by a global network of over 1,000,000 independent Distributors. XANGO's expansive operations include the U.S. and numerous international markets.

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US> Food and Drug Administration

Department of Health and Human Services
September 20, 2006

WARNING LETTER

VIA FEDERAL EXPRESS

Mr. Gary Hollister
Chief Executive Officer
Xango LLC, International
3098 Executive Parkway
Lehi, Utah 84043

Ref # - DEN-06-22

Dear Mr. Hollister :

This letter is to advise you of serious concerns that the Food and Drug Administration (FDA) has regarding the promotion of Xango, your mangosteen-juice product. Labeling used by distributors of your product promotes your product for use in the cure, mitigation, treatment, or prevention of disease. Products intended for such uses are drugs under section 201(g)(1)(B) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) [21 U.S.C. 321(g)(1)(B)).

FDA obtained brochures promoting the health benefits of mangosteens and mangosteen juice through contact information provided at a seminar at which representatives of your firm, David and Joe Morton, made presentations designed to recruit distributors for Xango. By using a telephone number provided by staff at the seminar, FDA ordered the "Mangosteen Brochure Combo Pack." FDA subsequently received a packet of brochures that included ten copies each of nine different brochures promoting the health benefits of mangosteens and mangosteen juice. The packet also included brochures aimed at recruiting distributors for your product.

Under the Act, "labeling" is not limited to labels on the immediate container for your product. "Labeling" is defined in section 201(m) the Act [21 U.S.C. 321(m)] as "all labels and other written, printed or graphic matter upon any article . . . or accompanying such article." The brochures we received as a prospective distributor of your product meet the definition of "labeling" in section 201(m) of the Act.

Examples of some of the claims in the brochures include:

From "Tame the Flame"

- "For several decades, relief from inflammation has been available through nonsteroidal anti-inflammatory drugs (NSAIDS) like aspirin and ibuprofen. Mangosteen is just that - a proven, natural COX 2 inhibitor."
- "One study showed mangosteen extract was a more potent anti-inflammatory agent than several prescription anti-inflammatory medications currently used for arthritis and gout."

From "22 Reasons to Drink Mangosteen Juice"

- "Prevents hardening of the arteries (atherosclerosis)"
- "Anti-inflammatory-Significantly reduces inflammation in the body targeting neck, back, and knee pain. Proven to significantly reduce nerve pain as well."

- "Anti-Parkinson, Anti-Alzheimer and other forms of dementia"
- "Anti-depressant."
- "Prevents bacterial infections (Anti-bacterial)"
- "Prevents and arrests fungus (Anti-fungal)"
- "Viral fighters and prevention of infections (Antiviral). Mangosteen has been used for centuries to treat skin disorders such as dermatitis, infections from wounds, ringworm, acne, and so forth."
- "Prevents gum disease (Antiperiodontic)"
- "Lowers fevers (Anti-pyretic)"
- "Eye care - prevents glaucoma and cataracts (Anti-glaucomic and Anti-cataract)"
- "Weight Loss - helps and prevents obesity (anti-obesity)"
- "Lowers blood fat (Anti-lipidemic) Dr. Templeman says, " . . .the degree of the lowering of LDL equals or exceeds that obtained with some commercial drug preparations . . without the serious side effects of the anti-cholesterol drugs."
- "Anti-Tumor benefits"
- "Cancer: Mangosteen helps in the prevention of cancer with its powerful anti-oxidants . Six Xanthones according to a preliminary study were capable of killing cancer cells."
- "Lowers blood pressure"
- "Blood sugar lowering"

From "An Introduction to Xanthones" -

- "The thick mangosteen rind is used for treating . . .cystitis (inflammation of the urinary bladder), dysentery, eczema (a skin disease), fever. . . ."
- Teas of the mangosteen bark are known for treating genital and urinary infections as well as stomatitis (inflammation of the mouth)."
- "anti-inflammatory"
- "anti-microbial"
- "anti-fungal"
- "anti-viral"
- "anti-cancer"
- "anti-tumor"
- "anti-ulcer"
- "anti-hepatotoxic"
- "Is anti-rhinoviral"
- "anti-allergic"
- "In addition, the anti-inflammatory activities of natural xanthones found in the mangosteen plant are significant. In particular, one recent study confirmed that gamma mangostin, a xanthone derivative, is a potent COX inhibitor. Suppressing the cellular production of cyclooxygenase, or "COX," is an important factor in reducing inflammation, pain and fever."

From "Mangosteen and the Hormone Balancing Act" -

- "Another way mangosteen keeps the cells and glands of the endocrine system working properly is by fighting off infection."
- "Scientific investigation has shown that mangosteen has strong antimicrobial properties. Anti means against; microorganisms are tiny organisms like bacteria, viruses, yeasts, and molds. Studies report mangosteen stops the growth of Staphylococcus, common bacteria that causes infections if not controlled. Another study done in Thailand found
that a mangosteen extract stimulated the phagocytic cells to kill the bacteria Salmonella enteritidis. Other research shows mangosteen to be effective in stopping various types of fungal growth."
- "By drinking mangosteen, you may help prevent infections . . . ."

From "Xanthones and the Chiropractic Connection" -

- "Because of the amazing results I have had with XanGo, I am now drug free and virtually pain free for the first time in 21 years. The .research I have performed on this product has led me to believe that it helps restore liver function, breaks down insulin resistance, and can turn around chronic conditions of inflammation in the cells of the body."
- "Its delicious taste and medicinal qualities not only put dessert on the table but keep the people free of such ailments as dysentery, infections, inflammation, diabetes, and pain, to mention a few."

From "Why Healthy People Drink Mangosteen Juice" -

- "Traditionally, mangosteen was used to help with ailments such as diarrhea, eczema, thrush, urinary infections . . . . Currently, many people use mangosteen to help prevent disease by lowering their risk factors for disease . . . ."
- "The xanthones in mangosteen have been shown to inhibit both bacteria (including strains of the staphylococcus bacteria that were antibiotic resistant) and viruses (such as HIV-1). In two separate studies, researchers proved that the xanthones in mangosteen prevented the growth of as many as six different dangerous fungi."
- "Polysaccharides are incredibly potent anti-cancer and anti-bacterial plant compounds . . . . Japanese scientists isolated several polysaccharides from mangosteen that helped decrease murine tumors (a cancerous tumor in mice)."
- "Another study that looked at the polysaccharides from mangosteen found that they were effective against intracellular bacteria (such as Salmonella enteritidis) . The study results showed that the mangosteen's potent polysaccharides killed all of the bacteria in the culture."

From "The Xanthone Effect" - David A. Morton, Ph.D -

- "Science supports the idea that xanthones found in the mangosteen fruit are an effective remedy for diarrhea and dysentery, mainly by inhibiting the action of the COX-2 enzyme (mechanism of action)."
- "They discovered that some mangosteen xanthones had been reported, 'to produce analgesic and anticonvulsant effects.' They also stated that the mangosteen xanthones were 'found to produce significant anti-inflammatory effects.' An interesting sidenote is that some mangosteen xanthones did not 'cause aggravation of gastric ulcers . . . mangostin produces significant antiulcer activity in experimental animals."
- "They concluded that, 'gamma-mangostin serves not only as a new attractive pharmacological tool for studying the molecular mechanism underlying inflammation but also as a new lead compound for drug development for the prevention and/or treatment of inflammation and brain diseases."

From "Mangosteen [and IBS, and Constipation] An Abdominal Surgeon's Perspective" -

- "Two of the conditions that I have found the mangosteen useful in treating are constipation, and IBS (irritable bowel syndrome), which I will deal with in this brochure."
- "Supplementing with mangosteen should enable you to reduce or eliminate the use of steroids in your treatment. . ."

These claims cause your product to be a drug, as defined in Section 201(g)(1)(B) of the Act [21 U.S.C. § 321(g)(1)(B)] . Because this product is not generally recognized as safe and effective when used as labeled, it is also a new drug as defined in Section 201(p) of the Act [21 U.S.C. § 321(p)]. New drugs may not be legally marketed in the United States without prior approval from FDA as described in section 505(a) of the Act [21 U.S.C. § 355(a)] . FDA approves new drugs on the basis of scientific data submitted by a drug sponsor to demonstrate that the drugs are safe and effective.

The introduction or delivery for introduction into interstate commerce of an unapproved new drug is prohibited under the FD&C Act [21 U.S.C. 331(d)] and may lead to enforcement action, including seizure and/or injunction. Please advise this office in writing, within 15 working days of receipt of this letter, as to the specific steps you have taken or will be taking to prevent your distributors from promoting your product in a manner that violates the Act. Your reply should be directed to the attention of Regina Barrell, Compliance Officer, Food and Drug Administration, at the address shown on the letterhead above.

Sincerely,

/s/
B. Belinda Collins
District Director



Xango - The whole fruit mangosteen juice's Notes

Notes About Xango - The whole fruit mangosteen juice

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Xango - The whole fruit mangosteen juice's Notes

Mangosteen Juice Doctors # 3 Dr. Vaughn T. Johnson

by Xango - The whole fruit mangosteen juice on Thursday, October 22, 2009 at 9:49am



Dr. Vaughn T. Johnson M.D.

Dr. Vaughn T. Johnson M.D. is a board certified family medicine physician. He has been practicing for over 10 years, and offers a wide range of medical services including Pediatrics, Obstetrics and Sports Medicine. In addition, Dr. Johnson serves as an associate professor of family medicine at several medical schools. Dr. Johnson currently resides in Utah with his wife Sherry and their four children.
"...Recently, I've changed the focus of my practice to try and prevent illnesses instead of always just treating them...A few years ago, I was introduced to a supplement that I firmly believe is a very powerful and very beneficial supplement, [which] I feel very comfortable recommending to my patients and that is mangosteen..."
Dr. Johnson has also recently become a regular speaker on the mangosteen juice circuit.

Dr. Vaughn T. Johnson

> Mangosteen "Monday Medical Call" every Monday with Dr. Johnson -> 712 429 0700 Pin 989745# 7:00 PM PST 8:00 PM MST.
>
> For more information on how to better your health, help prevent diseases or become a consultant to benefit your income and tax savings, see our extensive website in eight languages.
> For more information on how to better your health, help prevent diseases or become a consultant to benefit your income and tax savings, see our extensive website in eight languages.

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Properties Attributed to the Mangosteen

- Anti-inflammatory
- Anti-fatigue
- Anti-tumor and cancer preventive
- Anti-aging
- Antioxidant
- Hypoglycemic – blood sugar lowering (antidiabetic effect)
- Immunomodulation-supports the immune system
- Anti-lipidemic – blood fat lowering
- Anti-obesity – helps with weight loss
- Anti-atherosclerotic
- Antiviral – prevents or moderates viral infections
- Antibiotic – prevents or moderates bacterial infections



44 Problems, 1 Solution:

MANGOSTEEN

"Let food be thy medicine and medicine be thy food."

-Hippocrates



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For additional copies of this brochure call
1.888.461.7090 or visit www.mangosteentools.com

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*DISCLAIMER: The xanthones from the mangosteen have been shown in laboratory studies, to be powerful antioxidants, antiinflammatories and to have other, special properties. However, laboratory results do not guarantee that the same will happen in the human body.

Mangosteen is a supplement and not a drug, therefore no one can say that the mangosteen will cure, treat, or prevent any condition or symptom.

Look at the available science of the mangosteen, look at the causes of disease, and look at the experiences of those who are already taking mangosteen. Then answer for yourself - Does mangosteen make sense for you?

Skin Health

- **Dermatitis** (may be used topically for eczema and other skin conditions)
- **Wound healing**
- **Acne** (may be effective against the bacteria which causes most acne)

Infections

Xanthones from the mangosteen fruit have been tested in laboratory settings and found very effective against numerous infectious agents and related conditions, including:

- **Viruses**
- **Bacteria**
- **Fungi**
- **Parasites**
- **Fevers** (due to inflammation and infection)

Diabetes

- **Elevated blood sugar levels** (may decrease blood sugar in Type II diabetes by making insulin more effective)
- **Free Radical Damage** (may help prevent end organ damage from free radicals in diabetics)

Cancer

- **DNA damage** (may help prevent free radical damage and resulting cell mutations)
- **Tumor growth** (may decrease inflammation at the site of the cancer)

Vision

- **Glaucoma/Cataracts** (may prevent protein cross linking associated with glaucoma)



Kidney and Urinary Tract Health

- **Kidney disorders** (may enhance kidney function)
- **Bladder infections** (may decrease inflammation)

Emotional Health

- **Depression**
- **Anxiety**

Dental Health

- **Gum disease** (may promote gum healing in disease and after dental procedures)

Women's Health

- **PMS/PMDD**
- **Menstrual pain**

Pulmonary Health

- **Asthma**
- **Influenza**

*Please see note on reverse.

MANGOSTEEN: *44 Problems, 1 Solution*

The mangosteen has been used for centuries in traditional medicine throughout the world. Now, with over three decades of scientific laboratory studies to support its use, we know the mangosteen fruit may help with the following:*

Whole Body

- **Overall body health and wellness**
- **Fatigue** (may boost energy without stimulants)
- **Aging** (due to free radical exposure)
- **Immune Function**
- **Assists other vitamins and antioxidants**
- **Allergies** (may act as an anti-histamine)

Heart and Blood Vessels

- **Atherosclerosis Prevention** (may promote blood vessel health by decreasing free radical damage and inflammatory build-up)
- **Protection of heart muscle**
- **Lowers cholesterol & triglyceride levels**
- **Hypertension** (may lower high blood pressure)

Brain and Nerve Health

- **Parkinson's disease** (may protect neurons against damage)
- **Alzheimer's disease** (may decrease the inflammatory response to damaged neurons)
- **Nerve damage** (may decrease free-radical damage, especially common in diabetes)

Gastrointestinal Health

- **Diarrhea** (may stimulate normal bowel health, relieving both diarrhea and chronic constipation)
- **Gastroesophageal reflux disease** (may decrease stomach acid output, stabilizes stomach lining)
- **Ulcers** (may promote ulcer healing and prevents stomach damage)
- **Crohn's disease**
- **Colitis** (may decrease bowel inflammation, normalizes functioning)
- **Irritable bowel syndrome** (may help in stabilizing bowel function and normalize serotonin transmission associated with depression and anxiety related bowel problems)

Musculoskeletal Health

- **Arthritis and joint health** (may decrease inflammation, pain and joint damage associated with arthritis)
- **Headaches**
- **Migraine headaches**
- **Fibromyalgia** (may relieve muscle pain, whole body inflammation, depression and anxiety)
- **Sports health** (may decrease pain and inflammation following sports workout and minor injuries)

Common Causes Of So Many Different Diseases

It may seem strange that a single natural supplement has the potential to help fight or reverse a large number of health conditions—until we understand that so many diseases actually share the same causes. Over the past decade, more and more diseases have been shown to be the result of two major causes—free radical damage and chronic inflammation.

Antioxidants: The Answer To Free Radical Damage

Free radicals are dangerous substances we ingest and are exposed to constantly. Free radicals—also called oxidants—have the ability to damage and destroy our organs, cells, and even our DNA. This damage can only be prevented by the regular consumption of an adequate number of powerful antioxidants.

Putting Out the Fire: Chronic Inflammation

Inflammation, particularly chronic inflammation, is the second principal cause that many diseases share. For example, in some forms of dementia, free radicals damage the brain cells (neurons) first, but the body sends in an inflammatory response that actually causes many of the surrounding neurons to fail. Together, these two processes are responsible for the majority of today's debilitating and fatal diseases.

The ideal nutritional supplement to fight and prevent disease would contain both natural antioxidant and anti-inflammatory compounds. Enter the mangosteen!

The Mangosteen: Not Your Typical Fruit

For hundreds of years, the delicious-tasting mangosteen fruit has been used throughout Southeast Asia, India and many Pacific islands as a food and medicine staple by various cultures. Over the past thirty years, scientists have determined why the mangosteen is so effective at fighting disease and restoring health. The complete mangosteen (rind and pulp) contains more than forty nutritionally active components called xanthones.

Xanthones: Keys in the Fight Against Free Radicals and Inflammation

Xanthones are supercharged antioxidants that also have powerful anti-inflammatory properties. It's quite evident why mangosteen can positively affect so many conditions—it fights them at their root causes! Better yet, unlike pharmaceutical anti-inflammatory drugs, the mangosteen fruit is considered safe and helps protect the stomach and entire gastrointestinal system.

Mangosteen In the Laboratory

In addition to their antioxidant and anti-inflammatory properties, several of mangosteen's xanthones possess additional health-promoting and disease-fighting capabilities. In various laboratories throughout the world, xanthones have been found to be active against infectious agents, cholesterol damage, cancer cells, and more. These studies have also demonstrated that xanthones show much promise in promoting the health of the intestinal tract, kidneys, skin and other body systems.

Conclusion

Now you know why the mangosteen is as powerful as it is for promoting health. Open this brochure and discover the 44 reasons you should consider mangosteen as a requirement for your total health!



June 6, 2011
XANGO, LLC issued the following statement to The New York Times:

Celebrating nearly a decade in direct sales, XANGO, LLC continues to succeed on a vision of bringing great products to market, changing lives for the better and giving back to worthy causes. In its short history, XANGO has achieved tremendous success in the world of direct sales. Doing business in more than thirty countries, with nearly two million independent distributors and millions of consumers, XANGO takes great pride in its rich history.

As a member in good standing with the Direct Selling Association, wherein the company has served for three years on the board of directors, XANGO adheres to an industry code of ethics. In addition, the company maintains its own policies and procedures, which would-be entrepreneurs agree to follow when they sign up to become independent distributors of the XANGO product lines. These consumers and distributors come from all walks of life: doctors, lawyers, entrepreneurs, stay-at-home moms, etc.

XANGO neither approves or endorses any therapeutic or disease-related claims made in promotional materials, including those provided by The New York Times. Whenever a distributor is found to be in violation of our policies and procedures, a full-time compliance team actively investigates the matter and takes action to educate and, if necessary, discipline the offending party, including termination if deemed necessary. An investigation is currently underway regarding the activities cited by The New York Times and by policy we cannot comment any further.

From time to time XANGO hosts politicians at our headquarters in Lehi, Utah. Senator Hatch is the senior senator from the State of Utah and the author of the Dietary Supplement Health & Education Act (DSHEA) of 1994, which acknowledges the benefits of dietary supplementation to health promotion.

Dr. Johnson is an independent distributor and is not an official company spokesperson. XANGO regularly welcomes thousands of distributors to its offices and makes available meeting space for their use. While distributors may utilize XANGO-owned space for meetings, this is not indicative of an endorsement by XANGO of content and statements made at these meetings.

...
JEFF CHANDLER
senior manager, corporate communications

Mr. Hatch Responds:
Senator Hatch declined a request by The New York Times to be interviewed for this story. But his office did send responses to these questions in writing.

Q: How would he describe the proper role of the FDA in regulating the nutritional supplement industry?
A: Over 150 million Americans regularly consume dietary supplements as a means of improving and maintaining their health. The passage of DSHEA in 1994 brought clarity, predictability, and a better understanding of what the FDA expected from industry and visa versa. It provided an appropriate structure that balances the risks and benefits to consumers with continued access and affordability. Previous FDA Commissioners including Drs. Jane Henny, Mark McCellan, Les Crawford, and Andy von Eschenbach, have all agreed that DSHEA provides an appropriate and sufficient level of oversight of this industry.

Q: How did he first become a fan of nutritional supplements himself, as I know he takes them every day?
A: I do take supplements daily – have for years. I exercise daily. I try to eat well. All are a part of trying to live a better and healthier life.

Q: How well does he believe the Dietary Supplement *Health Education* Act has worked?
A: I agree with the previous FDA Commissioners that it has successfully provided an appropriate balances that ensures consumers know the benefits and risks, while assuring their continued access to safe, affordable supplements. I've been concerned with the way the FDA has enforced and implemented or should I say, the FDA's lack of implementation, of certain provisions of DSHEA. For example, since its passage in 1994, the FDA was charged to create good manufacture practices (GMP's) and publish the new dietary ingredient (NDI) guidance. It took the FDA until last June to fully implement the GMP requirements and it has yet to publish the NDI guidance. This delay is simply inexplicable to me.

Q: Obviously, a number of his former aides, and his son, have been involved in the industry for a number of years? I wanted to ask him directly, does this have any impact on how he handles matters related to the industry?
A: Let me be very clear here – no relationships have or will ever have any impact on my policy positions. Supplements are healthy and safe, and they are a major industry in my home state of Utah. I believe we set up the right balance in 1994 and I don't understand why Washington always has to say more regulation when we have yet to see what we passed into law close to 20 years ago fully implemented.

Q: Obviously, there are some out there—including Henry Waxman--who consider DSHEA to be weak law that they say allows companies to stretch the limits of the law and make what they consider unjustified claims about benefits associated with their products. Some also believe that because of the lack of a pre-approval process, the law means unsafe products are sometimes put on the market. What does Mr. Hatch think of this criticism?
A: This law strikes the right balance. It's been supported by numerous previous FDA commissioners. It has yet to be fully implemented by FDA. Why add more regulations on top of what we've got when what we've got hasn't been fully put into effect? I've got to tell you that the cost and time of bringing a product to market through the onerous FDA approval process would have major negative ramifications for this industry. Most supplement products cannot be patented, and there is no incentive for a manufacturer to put its product through this costly and onerous process when any other manufacturer could benefit equally from the research and investment.

SENATOR JOHN MCCAIN INTRODUCES THE DIETARY SUPPLEMENT SAFETY ACT OF 2010

February 3, 2010

Like many of you, I am looking forward to watching the Super Bowl this Sunday and the Winter Olympics later this month. However, a little over a year ago the NFL suspended six players, including two players from one of the teams competing this Sunday, for violating the league's anti-doping policy. Several of the players were surprised that they tested positive for a banned substance because they used a dietary supplement they believed to be safe and legal.

It is for precisely this reason that today Senators Dorgan and I are proud to introduce the Dietary Supplement Safety Act of 2010. All Americans should know the exact ingredients of any dietary supplement they use and the FDA must have the tools necessary to ensure the safety of dietary supplements.

This legislation would require dietary supplement manufactures to register with the FDA and fully disclose the ingredients contained in the supplement. Surveys have found that a majority of dietary supplement users believe the FDA approves the safety of dietary supplements prior to market introduction. However, that is not the case. In fact, dietary supplement manufacturers' advertised claims of safety and effectiveness are not reviewed or approved by the FDA.

Last January, the GAO published a comprehensive report entitled, "The FDA Should Take Further Actions to Improve Oversight and Consumer Understanding of Dietary Supplements." The report stated, "…several factors limit the agency's ability to detect concerns and remove products from the market. For example, FDA has limited information on the number and location of dietary supplement firms, the types of products currently available in the marketplace, and … once FDA has identified a safety concern, the agency's ability to remove a product from the market is hindered by a lack of mandatory recall authority…"

Lastly, the proposed legislation provides the FDA with **mandatory recall authority** if a product is found to be unsafe or harmful. It took the FDA ten years to ban ephedra – a dietary ingredient used for weight loss and bodybuilding that was found to cause serious medical risks to users including death. It has been reported that use of ephedra contributed to the deaths of Baltimore Orioles pitcher Steve Bechler and Minnesota Vikings player Korey Stringer. Additionally, there are numerous stories of amateur athletes

who took this supplement and experienced serious health problems.

It is my hope that this legislation will ensure that **all** Americans, including athletes, have all the information necessary to make informed decision when choosing whether to use a dietary supplement, and that the FDA has the ability to remove any harmful dietary supplements from the market.

# # #

BULLET POINTS ON MCCAIN'S ANTI-SUPPLEMENT BILL S.3002

USE THESE POINTS WHEN TALKING WITH YOUR SENATORS

1. **It's Worthless.** There is absolutely no need for this Bill. The purpose of the Bill is to stop steroid adulteration of dietary supplements. But the FDA already has these powers under DSHEA – it can halt the sales of such products, pull them off the market, and fine the companies selling and distributing them, right now. The FDA self-admittedly refused to enforce the current regulations in order to facilitate an industry of law breakers.

2. **It's Anti-Freedom.** By amending the definition of a "new dietary ingredient" to mean any dietary ingredient that "is not included on the list of Accepted Dietary Ingredients to be prepared, published, and maintained by the Secretary," this Bill puts an enormous amount of arbitrary power in the hands of the FDA Commissioner. Unlike present law that allows supplement ingredients already on the market to be lawfully sold, this new definition will eliminate the "grandfather clause" for products in use before October 15, 1994. In other words, if a dietary ingredient is not on the "accepted list," then it will be unlawful to sell it unless and until the FDA Commissioner says otherwise. The Commissioner will be able to ban an ingredient as unsafe without a hearing, without a rulemaking, and without any due process, simply by excluding it from her Accepted Dietary Ingredient list.

3. **It's Anti-Innovation.** This Bill will greatly stifle innovation in the dietary-supplement industry because it will increase regulatory costs, burdens, and barriers. Small- and medium-sized companies – the most innovative companies – will of course suffer the most.

4. **It's Expensive Make-Work.** It requires reporting for even non-serious adverse events! The Bill fails to define a non-serious adverse event, making it likely that reporting will be required for everything from a consumer's dislike of the product's taste to a consumer's objection to the color of a label. FDA wasn't receiving enough adverse event reports on supplements before, so this is its way to increase the numbers – report everything! This will require taxpayer-funded bureaucrats to sort through non-serious adverse event reports when they could be doing far more-important tasks. Reporting of serious events is already required under the law.

5. **It's Without Due-Process Safeguards.** Dietary supplements already have an enviable safety record without equal to any other consumable, even ordinary food. Yet, this Bill treats them as deadly and toxic, granting the FDA power to issue a cease-and-desist order if "there is a reasonable probability that a dietary supplement or a product marketed or sold as a dietary supplement would cause serious, adverse health consequences or death, or is adulterated or misbranded." Yet, the FDA already has the power to halt the sale of any dietary ingredient that presents a risk of illness or injury, can get an injunction blocking the sale, and can prosecute those responsible. But this Bill encourages abusive and arbitrary use of this extended regulatory power by the FDA since it lacks normal, due-process requirements. Any FDA stop-order can remain in place for years before there is a trial on the merits.

6. **It's Overkill.** The Dietary Supplement and Non-Prescription Consumer Protection Act (PL109-462) already requires supplement manufacturers and distributors to register with the FDA, which also has industry guidance in place. So, the intent of this Bill is already being accomplished and adequately protecting consumers. But this Bill would require everyone else who also holds or distributes supplements to register with the FDA, thereby encompassing even multi-level-marketing persons!

7. **It's Unnecessary.** In a press release, Senator McCain said that this legislation was needed based upon six NFL players being accused of taking supplements containing steroids. According to the NFL, these all related to these athletes' desire to lose weight. Sports and doping is just a small portion of a very healthy and safe market, and access of millions of consumers of dietary supplements should prevail over six highly-paid football players who have other options. Sports associations already have an extensive banned list, and the Anabolic Control Act of 2004 makes the scheduling of steroids a relatively easy task for the DEA. The problem is very specific: Go after synthetic substances that activate the testosterone receptor – synthetic anabolic steroids – and this, the FDA and DEA can already do without this Bill.

Go on-line and sign our Petition at: http://www.thenhf.com/press_releases/dietary2010_petition.htm

NATIONAL HEALTH FEDERATION
A NOT-FOR-PROFIT HEALTH-FREEDOM ORGANIZATION

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UNITED STATES SENATE
WASHINGTON, D. C.

ORRIN G. HATCH
UTAH

March 4, 2010

The Honorable John McCain
241 Russell Senate Office Building
Washington, DC 20510

Dear John:

Thank you for taking the time to talk with me this afternoon about S. 3002, the Dietary Supplement Safety Act of 2010.

I am pleased that you understand my serious concerns with your bill. Also, I want to thank you for agreeing to withdraw your support for the provisions of S. 3002 that I believe would do great harm to the dietary supplement industry and work with me on solutions that will truly help dietary supplement consumers without injuring this important industry. More than 100 million Americans regularly consume dietary supplements as a means of improving and maintaining healthy lifestyles. Therefore, continued access to these products is extremely important to them.

As you know, I authored the 1994 Dietary Supplement Health and Education Act (DSHEA) which ensures that individuals would have access to safe supplements and information about their use. DSHEA provided the Food and Drug Administration (FDA) with all the authority they need, and more authority than they had ever had previously, to remove harmful substances from store shelves and ensure consumers have access to safe supplements.

As we move forward on this important issue, I want to work with you on calling for the full enforcement of existing laws, such as DSHEA, so Americans will have uninterrupted access to safe dietary supplements and bad actor companies are removed from the market immediately.

I'm counting on you working with me to make sure this important industry does not fall prey to over-regulatory regimes and mounds of costly government bureaucracy. I believe that if you and I will work together, we will be able to make a difference for good in the dietary supplement industry. In short, we will ensure safe supplements are always available to consumers and the dietary supplement industry will be able to continue to innovate and grow.

John, thanks for your willingness to resolve this important issue.

Sincerely,

Orrin G. Hatch
United States Senator

United States Senate

WASHINGTON, DC 20510

March 10, 2010

The Honorable Tom Harkin, Chairman
The Honorable Michael B. Enzi, Ranking Member
Senate Committee on Health, Education, Labor, and Pensions
418 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Orrin G. Hatch
104 Hart Senate Office Building
Washington, DC 20510

Dear Senators Harkin, Enzi and Hatch:

Thank you for working with us to ensure the safety of dietary supplements for the nearly 150 million Americans who consume them. As you know, we introduced legislation last month to establish a framework through which the Food and Drug Administration (FDA) can identify and act upon safety concerns associated with dietary supplements. This legislation is supported by many different groups including Consumers Union, the United States Anti-Doping Agency and the American College of Obstetricians and Gynecologists.

We understand that you had concerns with S. 3002, the Dietary Supplement Safety Act. However, we were pleased to find common ground on some of the provisions included in the bill and that you are committed to working with us to incorporate those areas of agreement into S. 510, the FDA Food Safety Modernization bill. The four concepts where we found agreement are as follows:

(1) Requiring all dietary supplement manufacturing, processing and holding facilities to register with the Secretary of Health and Human Services (as included in Section 102 of S. 510 and Section 2 of S. 3002);

(2) Ensuring the Food and Drug Administration has the authority to issue a mandatory recall order if there is a reasonable probability that any dietary supplement is adulterated or misbranded or the use of such supplement could cause serious adverse health consequences such as death (as included in Section 207 of S. 510 and Section 2 of S. 3002);

(3) Requiring the Commissioner of the Food and Drug Administration to publish guidelines on new dietary ingredients as soon as possible; and,

(4) Mandating that the FDA notify the Drug Enforcement Administration when a new dietary ingredient premarket notification is rejected because the product contains a synthetic anabolic steroid.

Again, thank you for your leadership on this important issue. We feel strongly that these additional safeguards are necessary to protect those who take dietary supplements and will provide them with the information necessary to make more educated decisions regarding their health. We look forward to working with each of you to incorporate these principles into S. 510.

Sincerely,

John McCain
U.S. Senator

Byron L. Dorgan
U.S. Senator

3412.0
36-230

L. MITCHELL JONES (U.S.B. 5979)
Assistant Attorney General
MARK L. SHURTLEFF (U.S.B. 4666)
Attorney General
Commercial Enforcement Division
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Salt Lake City, UT 84114-6741
TEL: (801) 366-0310

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF **VAUGHN T. JOHNSON** TO PRACTICE AS AN OSTEOPATHIC PHYSICIAN AND TO ADMINISTER AND PRESCRIBE CONTROLLED SUBSTANCES IN THE STATE OF UTAH	)	**STIPULATION AND ORDER** CASE NO. DOPL 2008-- 272

VAUGHN T. JOHNSON ("Respondent") and the **DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING** of the Department of Commerce of the State of Utah ("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over Respondent and over the subject matter of this action.

2. Respondent acknowledges that Respondent enters into this Stipulation knowingly and voluntarily.

3. Respondent understands that Respondent has the right to be represented by counsel in this matter and Respondent's signature below signifies that Respondent has either consulted with an attorney or Respondent waives Respondent's right to counsel in this matter.

4. Respondent understands that Respondent is entitled to a hearing before the Utah State Osteopathic Physician Licensing Board ("the Board"), or other Division Presiding Officer, at which time Respondent may present evidence on Respondent's own behalf, call witnesses, and confront adverse witnesses. Respondent acknowledges that by executing this document Respondent hereby waives the right to a hearing and any other rights to which Respondent may be entitled in connection with said hearing.

5. Respondent waives the right to the issuance of a Petition and a Notice of Agency Action in this matter.

6. Respondent acknowledges that this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

7. Respondent neither admits nor denies the following, but, for the purposes of this administrative matter only, agrees that the Division may make the following findings of fact:

a. Between 2001 and January 2005, J.B.E. provided medical treatment to patient S.S. (full name withheld for confidentiality) to address S.S.'s mental health and pain issues. During the period that J.B.E. treated S.S., J.B.E. prescribed excessive amounts of and inappropriate types of controlled substances, including Schedule II controlled substances, while knowing S.S. had a history of substance abuse. Respondent did not adequately review or supervise J.B.E.'s medical decisions with regard to S.S.

b. J.B.E. failed to document in the patient records of S.S. sufficient need for the prescribed amount of opioid treatment and failed, as a prescribing practitioner, to follow the chronic pain management guidelines contained in the *Model Policy for the Use of Controlled Substances for the Treatment of*

Pain, 1998 and *2004*.

c. On or about February 17, 2005, S.S. died. According to the autopsy report, the immediate cause of death was mixed drug poisoning involving Fentanyl and Alprazolam prescribed by J.B.E., and ethanol.

d. Respondent's licenses to practice as an osteopathic physician and to administer and prescribe controlled substances were restricted and placed on probation by the Division, pursuant to stipulation, in or about October 2002. Respondent, as a supervising physician, failed to ensure that J.B.E., in his capacity as physician assistant, complied with the same terms and conditions that were placed on Respondent's controlled substance license by the Division pursuant to the October 2002 stipulation, specifically that J.B.E. did not issue controlled substance prescriptions on sequentially numbered duplicate prescription forms or have a reviewing physician monitor J.B.E.'s controlled substance prescribing and submit quarterly reports regarding the status of J.B.E.'s prescribing practices.

e. Between about June 2, 2005, and June 17, 2005, Respondent supervised B.W. (full name withheld for purposes of confidentiality), as a physician assistant, to work at a location remote from Respondent's main office. Respondent failed to enter into and maintain a DSA with B.W., circumscribing and setting forth the extent to which B.W. could engage in medical practice under Respondent's supervision.

f. Between about June 17, 2005, and October 2005, Respondent entered into a DSA with B.W. which authorized B.W. to prescribe controlled substance without regard to the terms and conditions placed on Respondent's restricted controlled substance license pursuant to the October 2002 stipulation, specifically that B.W. not issue controlled substance prescriptions on sequentially numbered duplicate prescription forms or have a reviewing physician monitor B.W.'s controlled substance prescribing and submit quarterly reports regarding the status of B.W.'s prescribing practices.

g. On or about April 17, 2006 and again on or about April 24, 2006, Respondent accessed the Division's Controlled Substance Database and received a controlled substance database prescription report (hereinafter "CSDB report") on patient J.S. (full name withheld for purposes of confidentiality). Respondent then provided the CSDB report to D.S. (full name withheld for purposes of confidentiality), the husband of J.S., a person not lawfully authorized to receive the report, to be used in litigation against J.S. Respondent obtained the CSDB report at the request of D.S.

h. In March and April 2007, Respondent signed a number of blank prescription forms and provided them to T.C. (full name withheld for purposes of confidentiality), an employee at a Utah weight loss clinic who was not licensed to administer or prescribe controlled substances in the State of Utah. T.C. filled out at over 100 (one-hundred) prescription forms signed by Respondent and issued them to clients of the weight loss clinic so that the clients could obtain phentermine, a Schedule IV controlled substance. Respondent did not establish any physician-patient relationship with any of the weight loss clinic clients that were provided with prescriptions for phentermine.

8. While Respondent neither admits nor denies the preceding findings of fact, Respondent agrees that findings of fact as made by the Division above, for the purposes of this administrative matter only, constitute unprofessional conduct as defined in Utah Code Ann. § 58-1-501(2)(a) and (m), § 58-67-502, and Utah Administrative Code R156-70a-501, R156-37-502(2), R156-37-603(8) and (10), and R156-37-604(2); and unlawful conduct as defined in Utah Code Ann. § 58-1-501(2)§ 58-37-6(4)(a)(vi), § 58-37-7.5(8), (9), (10) and (11), and justifies disciplinary action against Respondent's license pursuant to Utah Code Ann. § 58-1-401(2)(a) and (b). Respondent agrees that an Order, which constitutes disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2), may be issued in this matter providing for the following action against his license:

(1) Respondent's license to administer and prescribe controlled substances in the State of Utah shall be revoked. The revocation shall be immediately stayed and the license shall be suspended until Respondent successful completes the requirements contained in subparagraph 8(3)(d) and 8(3)(e) below along with any further training recommended by the CPEP evaluation set forth in subparagraph 8(3)(d) below. Once the suspension of Respondent's controlled substance license is lifted, the license shall be subject to a term of probation concurrent with the term of probation for Respondent's license to practice as an osteopathic physician as described below. The period of probation shall commence on the date of the issuance of an Amended Order by the Division director in this matter lifting the suspension. During probation, the Respondent shall be subject to all of the following terms and conditions. If the Board or Division later

deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division. If the Division Director accepts the terms of this Stipulation and Order, Respondent forfeits all rights to prescribe and administer controlled substances for the period of suspension. Respondent understands that Respondent will not receive any refund of license or renewal fees previously paid to the Division.

(2) Respondent shall pay a fine to the Division in the amount of $5,000.00 (five-thousand dollars), pursuant to Utah Code Ann. § 58-37-7.5(11), due and payable within 90 days of the effective date of the Order in this matter. Respondent hereby waives Respondent's rights to a proceeding pursuant to Utah Code Ann. Title 63, Chapter 46b, and Title 58, Chapter 1 as set for in Utah Code Ann. § 58-67-402.

(3) Respondent's license to practice as an osteopathic physician in the State of Utah shall be revoked. That revocation shall be immediately stayed and the Respondent's license shall be subject to a five year term of probation. The period of probation shall commence on the date of the issuance of an Order by the Division director in this matter. During probation, the Respondent shall be subject to all of the following terms and conditions. If the Board or Division later deems any of the conditions unnecessary such deletions may be made by an amended order issued unilaterally by the Division.

a. Respondent shall meet with the Board within thirty (30) days of the signing of the accompanying Order. Respondent shall meet with a Division staff person prior to Respondent's first meeting with the Board to review this Stipulation and Order. Respondent shall meet with the Board quarterly or at such other greater or lesser frequency as the Division may direct thereafter.

b. Respondent shall identify a supervising physician to supervise Respondent's practice. The supervising physician shall be in good standing with the Division. The supervising physician shall agree to co-manage practice care issues with Respondent to include the review of 10% of Respondent's medical charts. Respondent shall bear all expenses related to such supervision. The supervising physician must be approved by the Division and Board and shall consult with Respondent on a weekly basis regarding practice issues. Respondent shall cause the supervising physician to meet with the Board at the first meeting with the Board following the effective date of this Order, to discuss oversight issues and the responsibilities expected of a supervising physician. Respondent

shall further cause the supervising physician to submit performance evaluations to the Board on a quarterly basis. The receipt of an unfavorable report may be considered to be a violation of probation. If Respondent is not employed as a physician, Respondent shall submit the employer performance report form on the date it is due and indicate on the form that Respondent is not currently practicing as a physician or that Respondent is not currently working.

c. If Respondent enters into an employment arrangement whereby he is an employee, Respondent shall notify his employer of Respondent's restricted status and the terms of this Stipulation and Order, and shall further cause his employer to submit performance evaluations to the Board on a quarterly basis. Respondent shall cause his employer to acknowledge to the Board in writing that a copy of this Stipulation and Order has been provided to the employer by Respondent. The receipt of an unfavorable report shall be considered to be a violation of probation.

d. Within six months of the entry of the Order in this matter, Respondent shall submit to an evaluation by the Colorado Physician Education Program (hereinafter "CPEP"), in Denver, Colorado. Respondent shall successfully complete all educational recommendations made by CPEP.

e. Respondent shall successfully complete a course on the appropriate prescribing within six months of the effective date of this Stipulation and Order. The course shall be pre-approved by the Division and Board. The course shall not count toward Respondent's regular continuing education requirement.

f. Respondent shall successfully complete four additional Category One continuing education credit hours, pre-approved by the Board and Division, focusing on the subject of prescribing law and ethics. Respondent shall successfully complete the additional four hours of continuing education with twelve months of the effective date of this Stipulation and Order. The four additional hours shall not count toward Respondent's regular continuing education requirement.

g. Respondent may not supervise any physician assistant in any manner, unless approved by the Division.

h. In the event Respondent does not practice as a physician for a

period of sixty (60) days or longer, Respondent shall notify the Board in writing of the date Respondent ceased practicing. The period of time in which Respondent does not practice shall not be counted toward the time period of this Stipulation and Order. It shall be within the discretion of the Board to modify this requirement if Respondent satisfactorily explains to the Board that compliance in Respondent's case was impractical or unduly burdensome.

i. Respondent shall notify the Board in writing within one (1) week of any change of employer, employment status, or practice status. This notification is required regardless of whether Respondent is employed in Respondent's profession.

j. If Respondent leaves the State of Utah for a period longer than sixty (60) days, Respondent shall notify the Division and Board in writing of the dates of Respondent's departure and return. The licensing authorities of the jurisdiction to which Respondent moves shall be notified by Respondent in writing of the provisions of this Stipulation and Order. Periods of residency or practice outside the State of Utah may apply to the reduction of the period this Stipulation and Order is in effect, if the new state of residency places equal or greater conditions upon the Respondent as those contained in this Stipulation and Order.

k. If Respondent is arrested or charged with a criminal offense by any law enforcement agency, in any jurisdiction, inside or outside the State of Utah, for any reason, or should Respondent be admitted as a patient to any institution in this state or elsewhere for treatment regarding the abuse of or dependence on any chemical substance, or for treatment for any emotional or psychological disorder, Respondent agrees to cause the Division and Board to be notified immediately. If Respondent at any time during the period of this agreement is convicted of a criminal offense of any kind, or enters a plea in abeyance to a criminal offense of any kind, including a pending criminal charge, the Division may take appropriate action against Respondent, including imposing appropriate sanctions, after notice and opportunity for hearing. Such sanctions may include revocation or suspension of Respondent's license, or other appropriate sanctions.

l. Respondent must maintain a current Utah physician license at all times during the period of probation.

m. Respondent shall immediately notify the Division in writing of any change in Respondent's residential, business, or mailing address.

9. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this non-criminal administrative matter. The Division shall not make a referral of any of the matters involved in this Stipulation and Order to criminal authorities. Respondent acknowledges that the Director is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the Respondent waive any claim of bias or prejudgment Respondent might have with regard to the Director by virtue of his having reviewed this Stipulation, and this waiver shall survive such nullification.

10. Respondent agrees to abide by and comply with all applicable federal and state laws, regulations, rules and orders related to the Respondent's practice as an osteopathic physician and the administration and prescription of controlled substances.

11. This document constitutes the entire agreement between the parties and supersedes and cancels any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements that modify, interpret, construe or affect this Stipulation.

12. The terms and conditions of this Stipulation and Order become effective immediately upon the approval of this Stipulation and signing of the Order by the Division Director. Respondent must comply with all the terms and conditions of this Stipulation immediately following the Division Director's signing of the Order page of this Stipulation and Order. Respondent shall complete all the terms and conditions contained in the Stipulation and Order in

a timely manner. If a time period for completion of a term or condition is not specifically set forth in the Stipulation and Order, Respondent agrees that the time period for completion of that term or condition shall be set by the Board. Failure to complete a term or condition in a timely manner shall constitute a violation of the Stipulation and Order and may subject Respondent to revocation or other sanctions.

13. If Respondent violates any term or condition of this Stipulation and Order, the Division may take action against Respondent, including imposing appropriate sanction, in the manner provided by law. Such sanction may include revocation or suspension of Respondent's license, or other appropriate sanction.

14. Respondent has read each and every paragraph contained in this Stipulation and Order. Respondent understands each and every paragraph contained in this Stipulation and Order. Respondent has no questions about any paragraph or provision contained in this Stipulation and Order.

DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

BY: _____
NOEL TAXIN
Bureau Manager

RESPONDENT

BY: _____
VAUGHN T. JOHNSON
Respondent
11/18/08

DATE: 11/24/03

MARK L. SHURTLEFF
ATTORNEY GENERAL

BY: _____
L. MITCHELL JONES
Counsel for the Division

DATE: 24 Nov 2008

DATE: 11/18/08

ORDER

THE ABOVE STIPULATION, in the matter of **VAUGHN T. JOHNSON,** is hereby approved by the Division of Occupational and Professional Licensing, and constitutes my Findings of Fact and Conclusions of Law in this matter. The issuance of this Order is disciplinary action pursuant to Utah Administrative Code R156-1-102(7) and Utah Code Ann. § 58-1-401(2). The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 25 day of November, 2008 ~~2007~~.

DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

F. David Stanley

F. DAVID STANLEY
Director

Investigator: Lynn Hooper and Vince Garcia

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF **VAUGHN T. JOHNSON, DO** TO PRACTICE AS AN OSTEOPATHIC PHYSICIAN/SURGEON AND TO ADMINISTER AND PRESCRIBE CONTROLLED SUBSTANCES IN THE STATE OF UTAH	**ORDER REINSTATING LICENSE**
	Case No. DOPL-2002-235

BY THE DIVISION:

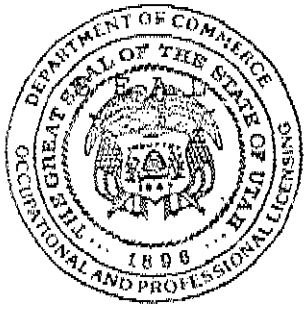
Respondent has satisfied the terms and conditions as set forth in the Division's Stipulation and Order, dated October 3, 2002, in the above-referenced case number.

IT IS HEREBY ORDERED the probation on the licenses of VAUGHN T. JOHNSON, DO to practice as an osteopathic physician/surgeon and to administer and prescribe controlled substances be terminated and said licenses be reinstated with full privileges retroactive to April 24, 2006.

Dated this 14TH day of August, 2006.

W. Ray Walker

W. Ray Walker
Acting Director



CHERYL D. LUKE (USB 2013)
Assistant Attorney General
MARK L. SHURTLEFF (USB 4666)
Attorney General
Commercial Enforcement Division
Heber Wells Building
160 East 300 South
Box 146741
Salt Lake City, Utah 84114-6741
Telephone: (801) 530-6412

BEFORE THE DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

OF THE DEPARTMENT OF COMMERCE

OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSE OF **VAUGHN T. JOHNSON, D.O.,** TO PRACTICE MEDICINE AND TO ADMINISTER AND PRESCRIBE CONTROLLED SUBSTANCES IN THE STATE OF UTAH	))))))	**STIPULATION AND ORDER** Case No. DOPL-2002 -235

STIPULATION

VAUGHN T. JOHNSON, D.O., ("Respondent"), and the Division of Occupational and Professional Licensing of the Department of Commerce ("Division") stipulate and agree as follows:

1. Respondent admits the jurisdiction of the Division over him and over the subject matter of this action.

2. Respondent acknowledges he enters into this Stipulation knowingly and voluntarily.

3. Respondent understands he may be represented by an attorney in this matter. By executing this document Respondent acknowledges he has either sought advise from legal counsel or has chosen to represent himself and knowingly waives that right.

4. Respondent understands he is entitled to a hearing before the Utah State Physicians Licensing Board ("the Board"), or other Division presiding officer, at which time he may present evidence on his behalf, present his own witnesses and confront adverse witnesses. Respondent acknowledges that by executing this document, he waives: (1) the right to a hearing, (2) the right to present evidence on his behalf, (3) the right to present his own witnesses, and (4) the right to confront adverse witnesses, together with such other rights to which he may be entitled in connection with said hearing.

5. Respondent waives the right to issuance of a Notice of Agency Action.

6. Respondent acknowledges this Stipulation and Order, if adopted by the Director of the Division, will be classified as a public document and may be released to other persons and entities.

7. Respondent admits:

a. On or about May 9, 2000, Respondent issued five prescriptions to patient EN (name withheld for confidentiality) for controlled substances, three for Butabital/APAP and two for Lorcet. The quantities of these medications prescribed by Respondent were in excess of what the patient required for his medical condition and Respondent knew this patient had a history of drug abuse. Respondent did not document these prescriptions or the need for them in the patient's chart.

b. On or about June 19, 2000, Respondent issued three prescriptions for 70 tablets each of Lorcet 10mg to EN. On Respondents recommendation, all three prescriptions were filled by EN at three

different pharmacies on the same date they were prescribed. Again, these medications were in excess of what was necessary to treat this patient's medical condition. Respondent did not document these prescriptions or the medical need for them in a patient chart.

c. On or about July 17, 2000, Respondent issued two prescriptions to patient BN (name withheld for confidentiality) for Lorcet 10mg. Both prescriptions were filled on the same day at two different pharmacies.

d. On or about August 11, 2000, Respondent issued three prescriptions to patient BN for controlled substances, one for sixty (60) tablets of Oxycontin 40mg and two for 70 tablets of Lorcet 10mg. On Respondent's advise, BN filed these prescriptions at two pharmacies on the same date they were issued.

8. Respondent agrees his just described actions constitutes "unprofessional conduct" and grounds for sanctioning Respondent Under UTAH CODE ANN. Section 58-1-401(2)(a) and justifies the imposition of a fines pursuant to UTAH CODE ANN. § 58-68-402(1). Therefore, Respondent agrees:

(1) Respondent's Licenses shall be revoked. Those revocations shall be stayed and Respondent's licenses shall be placed on a three year term of probation subject to the following terms and conditions:

(a) Respondent shall pay an administrative fine to the Division in the amount of $3,000, due and payable within 90 days from the effective date of the Order in this matter. Paid 1/3/12 # 75320

(b) Within six months of the effective date of the Order in this matter, Respondent shall complete the PACE physician's prescribing course and the medical records course at the University of San Diego. The Board and Division may extend the time period designated herein upon a showing by Respondent that admission to the course was not available to him in the period prescribed.

(c) Respondent shall meet with the Board and/or a Division Representative within 30 days of the effective date of the Order in this matter to review Respondent's probation. After the initial meeting, Respondent shall meet with the Board and Division upon request.

(d) Respondent shall, at his own expense, obtain a reviewing physician, approved by the Board and the Division, who will monitor Respondent's controlled substance prescribing and submit quarterly reports regarding the status of Respondent's prescribing practices.

(e) Respondent shall issue controlled substance prescriptions only on sequentially numbered duplicated prescription forms. The duplicate copies of all such prescriptions shall be provided to the Division monthly.

(f) Respondent shall notify the Division of any review or investigation of his patient care by any hospital or clinic. Respondent shall also notify the Division of any tort claims related to his medical practice.

(g) Respondent shall provide a copy of the executed Stipulation and Order in this matter to any employer or partnership in which he practices medicine and to any hospital where he has staff privileges.

(h) Should Respondent not be employed in practice as an osteopathic physician during his probationary period for a consecutive period of more than 60 days, that period shall not apply to the reduction of probation, though the terms of probation shall remain applicable.

(i) Failure by Respondent to pay any of the expenses associated with his probation will be a violation of the Stipulation and Order.

(j) In the event Respondent violates or fails to fulfill any terms or conditions as contained in this Stipulation, the Division may, in addition to taking action as provided for herein, after giving Respondent notice and the opportunity to be heard, revoke probation and impose any sanction stayed thereby, and otherwise proceed against Respondent under applicable law. If a complaint or petition to revoke probation is filed against Respondent during probation, the period of probation and all relevant probationary terms and conditions shall be extended until the matter is final.

9. This Stipulation and Order, upon approval by the Director of the Division, shall be the final compromise and settlement of this matter. Respondent acknowledges

that the Director of the Division is not required to accept the terms of this Stipulation and Order and that if the Director does not do so, this Stipulation and the representations contained therein shall be null and void, except that the Division and the respondent waive any claim of bias or prejudgment they might have with regard to the Director by virtue of his having reviewed this stipulation.

10. This document constitutes the entire agreement between the parties and supersedes any and all prior negotiations, representations, understandings or agreements between the parties regarding the subject of this Stipulation and Order. There are no verbal agreements which modify, interpret, construe or affect this Stipulation.

DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

DATE: Oct 2, 02

BY: _____
Cheryl Luke
Assistant Attorney General

Approved _____
Diana Baker, M.S.R.N.
Bureau Manager

RESPONDENT

DATE: 10/2/02

BY: _____
Vaughn T. Johnson, D.O.
RESPONDENT

ORDER

THE STIPULATION ABOVE, in the matter of VAUGHN T. JOHNSON, D.O., which is approved by the Division of Occupational & Professional Licensing, constitutes my Findings of Fact and Conclusions of Law in this matter. The terms and conditions of the Stipulation are incorporated herein and constitute my final Order in this case.

DATED this 3rd day of _____, 2002.

J. Craig Jackson, Director
Division of Occupational
and Professional Licensing

INVESTIGATOR: SHANE TIERNAN